

BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**  
AUG 19 2004  
ADMINISTRATIVE HEARING  
COMMISSION

|                               |   |                     |
|-------------------------------|---|---------------------|
| DEMETRIUS GLASS,              | ) |                     |
|                               | ) |                     |
| Petitioner,                   | ) |                     |
|                               | ) |                     |
| v.                            | ) | Case No. 04-0979 DI |
|                               | ) |                     |
| SCOTT B. LAKIN, Director of   | ) |                     |
| Insurance, State of Missouri, | ) |                     |
|                               | ) |                     |
| Respondent.                   | ) |                     |

**ANSWER AND COUNTERCLAIM/COMPLAINT**

**ANSWER**

COMES NOW Respondent, Scott B. Lakin, Director of Insurance, State of Missouri, and for his Answer, states as follows:

1. Respondent is the duly appointed Director of Insurance, State of Missouri ("the Director"), whose duties include the licensing, discipline and regulation of insurance producers in this state pursuant to Chapter 375, RSMo.

2. Petitioner held a Missouri insurance producer license issued by the Director, No. PR238505, which expired on June 24, 2004. The license cited "Accident and Health, Life and Variable Contracts" as Petitioner's authorized lines of insurance.

3. Prior to June 24, 2004, Petitioner filed an application with the Director to have "Property and Casualty" added as a line of insurance on Petitioner's license and also filed an application with the Director to have the license renewed. The Director refused to add "Property and Casualty" as a line of insurance on Petitioner's license and also refused to renew Petitioner's license, pursuant to sections 375.141.1 (2), (4) and (8), RSMo Supp. 2003, and section 375.141.2, RSMo

Supp. 2003.

4. On June 24, 2004, the Director sent a notice of the refusals to Petitioner pursuant to sections 621.120, RSMo 2000, and 375.141.2, RSMo Supp. 2003. A copy of the notice is attached hereto as "Exhibit A" and incorporated herein by reference. After receiving the notice, Petitioner filed a Complaint with this Commission.

5. The Director admits that he sent a refusal letter to Petitioner on June 24, 2004, but denies the other allegations set forth in Petitioner's Complaint wherein Petitioner alleges that he is entitled to an insurance producer license.

6. Petitioner's conduct that is the cause for the Director's refusals and the provisions of law that provide a legal basis for the Director's refusals are set forth below in Counts I through VI of the Director's Counterclaim/Complaint. All of the allegations contained in Counts I through VI of the Director's Counterclaim/Complaint are realleged and incorporated herein by reference. Section 375.141.2, RSMo Supp. 2003, also provides a legal basis for the Director's refusals.

WHEREFORE, The Director requests that the Commission dismiss Petitioner's Complaint or affirm the Director's refusal to add "Property and Casualty" as a line of insurance to Petitioner's license and refusal to renew Petitioner's license.

#### COUNTERCLAIM/COMPLAINT

COMES NOW Respondent, Scott B. Lakin, Director of Insurance, State of Missouri, and for his Counterclaim/Complaint against Petitioner, states as follows:

#### Information Relevant to All Counts

1. Respondent is the duly appointed Director of Insurance, State of Missouri ("the Director"), whose duties include the licensing, discipline and regulation of insurance producers in

this state pursuant to Chapter 375, RSMo.

2. Petitioner held a Missouri insurance producer license issued by the Director, No. PR238505, which expired on June 24, 2004. The license cited "Accident and Health, Life and Variable Contracts" as Petitioner's authorized lines of insurance. Respondent refused to renew Petitioner's license.

3. This Commission has jurisdiction of this Counterclaim/Complaint pursuant to section 621.045, RSMo.

### **Count I**

4. Petitioner has violated an insurance regulation, a ground for discipline of Petitioner's license under section 375.141.1(2), RSMo Supp. 2003.

5. The facts are as follows:

a. On or about February 10, 2003, Petitioner received \$898.00 from Sonya J. James, in the course of doing insurance business, and

b. Such funds belonged to Sonya J. James, and

c. Petitioner improperly withheld or misappropriated such funds to his own use or diverted such funds for a use other than that intended, and

d. Such funds were for an insurance premium payment associated with a personal insurance policy of Ms. James and Petitioner knowingly failed to remit the premium payment to the insurer within thirty days of receiving the payment, as required by 20 CSR 700-1.140(2)(D), and

e. Petitioner thereby violated 20 CSR 700-1.140(2)(D).

### **Count II**

6. Petitioner has improperly withheld, misappropriated or converted money or property received in the course of doing insurance business, a ground for discipline under section 375.141.1(4), RSMo Supp. 2003.

7. Respondent realleges and incorporates herein by reference all of the allegations contained in Count I of this Complaint.

### **Count III**

8. Petitioner has used dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, a ground for discipline under section 375.141.1(8), RSMo Supp. 2003.

9. The facts are as follows:

a. Respondent realleges and incorporates herein by reference all of the allegations contained in Counts I and II of this Complaint, and

b. As a result of Petitioner's conduct, Ms. James was without insurance coverage for a period of time, and

c. Petitioner sold Ms. James a homeowner's insurance policy and an automobile insurance policy although he was not licensed to sell such policies, and

d. Petitioner's actions involved dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

#### **Count IV**

10. Petitioner has violated an insurance regulation, a ground for discipline of Petitioner's license under section 375.141.1(2), RSMo Supp. 2003.

11. The facts are as follows:

a. On or about June 13, 2003, Petitioner received \$163.87 from Veronica Osborne, in the course of doing insurance business, and

b. Such funds belonged to Veronica Osborne, and

c. Petitioner improperly withheld or misappropriated such funds to his own use or diverted such funds for a use other than that intended, and

d. Such funds were for an insurance premium payment associated with a personal insurance policy of Ms. Osborne and Petitioner knowingly failed to remit the premium payment to the insurer within thirty days of receiving the payment, as required by 20 CSR 700-1.140(2)(D), and

e. Petitioner thereby violated 20 CSR 700-1.140(2)(D).

#### **Count V**

12. Petitioner has improperly withheld, misappropriated or converted money or property received in the course of doing insurance business, a ground for discipline under section 375.141.1(4), RSMo Supp. 2003.

13. Respondent realleges and incorporates herein by reference all of the allegations contained in Count IV of this Complaint.

### Count VI

14. Petitioner has used dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, a ground for discipline under section 375.141.1(8), RSMo Supp. 2003.

15. The facts are as follows:

a. Respondent realleges and incorporates herein by reference all of the allegations contained in Counts IV and V of this Complaint, and

b. As a result of Petitioner's conduct, Ms. Osborne was without insurance coverage for a period of time, and

c. Petitioner sold Ms. Osborne a homeowner's insurance policy and an automobile insurance policy although he was not licensed to sell such policies, and

d. Petitioner's actions involved dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

WHEREFORE, the Director requests that the Commission find cause to discipline the insurance producer license of Petitioner.

Respectfully submitted,

Scott B. Lakin, Director of Insurance, Missouri

Stephen R. Gleason

By: Stephen R. Gleason, Senior Counsel #30593

Missouri Department of Insurance

P.O. Box 690

Jefferson City, MO 65102

Tel: 573-751-2619

Attorney for Respondent, Director of Insurance

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was sent via first class mail, postage prepaid, on this 19<sup>th</sup> day of August 2004, to:

Demetrius Glass  
13076 New Halls Ferry Road, #103  
Florissant, MO 63033  
Petitioner

Stephen R. Gleason

"EXHIBIT A"

State of Missouri



Bob Holden, Governor

Department of Insurance  
P.O. Box 690  
Jefferson City, Missouri 65102-0690

Scott B. Lakin  
Director

June 24, 2004

Demitrius Glass  
13905 Lesabre Drive  
St. Louis, Missouri 63034

RE: Our File # 03A000552  
Application for Property & Casualty License  
Producer Renewal Notice

Dear Mr. Glass:

This is to inform you that pursuant to Section 375.141.2, your application for a Property & Casualty insurance producer's license in the State of Missouri is hereby refused pursuant to Sections 375.141.1 (2) as it relates to Section 374.210.2 RSMo and 375.141.1 (4) (8) RSMo.

This is to inform you that your Producer Renewal application for a Life and Health license in the State of Missouri is hereby refused pursuant to Sections 375.141.1(2) as it relates to Section 374.210.2 RSMo and 375.141.1(4) (8) RSMo.

You have the right to appeal this decision by filing a complaint with the Administrative Hearing Commission (AHC), P.O. Box 1557, Jefferson City, Missouri 65102, within thirty (30) days after the mailing of this notice pursuant to Section 621.120 RSMo.

Sincerely,

Scott B. Lakin  
Director

SBL/kc

✓ Cc: Mike Duffeck  
License Section Supervisor